

(13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
.....

Original Application No. 123 of 1991.

this the day of 20th April, 1999.

HON'BLE MR. D.C. VERMA, MEMBER JUDICIAL
HON'BLE MR. A.K. MISRA, MEMBER ADMINISTRATIVE.

Vijai Kumar Tripathi, aged about 32 years,
son of Sri. Nand Kumar Tripathi, resident,
of Village and Post Thawar, District-
LUCKNOW.

...Applicant.

By Advocate:- Sri.S.B. Pandey.

Versus.

Union of India, through its Secretary,
Post and Telegraph Department Government,
of India, New Delhi.

2. Commandant, Sena Dak Seva Kendra, Kamptee,
A.P.O., Nagpur.

3. Senior Superintendent of Post Offices,
New Hyderabad, Lucknow.

... Respondents.

By Advocate:- Dr.D. Chandra.

ORDER (Oral)

BY D.C. VERMA, J.M.

By this O.A. the applicant Vijai Kumar
Tripathi has prayed for quashing of order of termi-
nation, if any, ^{after} summoning ^{it} from the respondents. Further
prayer is to allow the applicant to work on the Group
'D' post and to pay him regular salary and allowances

with effect from 11.2.1984.

2. The brief facts of the case is that the applicant was initially appointed as Extra Departmental Branch Post Master by order dated 7.1.1982. The applicant took over charge on the said post on 3.2.1982 at Thawar, Lucknow Division. Subsequently in 1983 the applicant was sent, after medical examination, to Army Postal Service, However, ^{subsequently} by order dated 10.2.1984 (Annexure-2 to the O.A.) the applicant was discharged and instructions was given to report in the office of S.S.P.O. Lucknow Division.

3. As claim^{ed} by the applicant, he reported to S.S.P.O., Lucknow but was not given duty, he approached several times but ^{with} no result, ^{finally} applicant filed this O.A. in 1991.

4. The case of the respondents is that the applicant was discharged from Army Postal Service on 10.2.1984. ~~and was given never charge.~~ In compliance thereof the applicant ^{was to} approach to S.S.P.O., Lucknow. The applicant however, as per the respondents case, never reported to S.S.P.O., Lucknow.

5. Heard, Counsel for the parties and perused the pleadings on records. It is an admitted fact that the applicant was initially appointed as E.D.B.F.M., Thawar and was subsequently sent to Army Postal Service on ~~being~~ deputation on 10.2.1984. The applicant was ^{to} report to Civil Unit, ^{even if} the case of the respondents, that the applicant never reported to S.S.P.O., Lucknow, is accepted, ^{and} action under rule-6 of the service rule of E.D. Staff 1964 should have been taken by the respondents. As per the

respondents pleadings there is nothing on record to show that any action to terminate the service of the applicant as per Rule-6 of the EDA (Conduct and Service) Rules, 1964 was taken.

6. The learned counsel for the applicant has submitted that the applicant had reported for duty in compliance of the discharge order dated 10.2.1984, however, there is nothing on record to show that the applicant actually reported for duty.

7. The learned counsel for the respondents has drawn attention of the Bench towards Annexure-3 and Annexure-4 to the O.A.. A reading of the said para's shows that the applicant only appeared before the Assistant Superintendent of Post Offices only to know the reasons, he was called there. There is nothing on record to show that the applicant had submitted any joining report. Learned counsel has submitted that vide Annexure-5 to the O.A. the applicant was informed that in view of the pending criminal case the department has not taken decision in respect of the applicant. The Annexure-5 is reply to the Annexure-4, this doesnot shows that the applicant had made any joining report. We therefore ^{held that} ~~hope~~ that the applicant at no time ~~may~~ submitted any joining report.

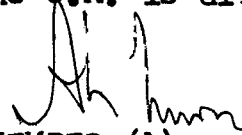
8. However, as has found earlier ^{that} the department took no action under Rule-6 of the EDA (Conduct and Service) Rules therefore the applicant shall be deemed to be in service till the applicant's services are terminated according to law.

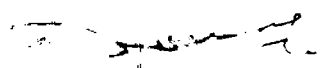
9. Though the apolicant has claimed that he was a Group-D employee but there is nothing on record to show that the applicant was ever submitted or confirmed to

Group-D post. The applicant was appointed as Extra Departmental Branch Post Master, Thawar and went on deputation to Army Postal Service on the said post on being discharged from the Army Postal Service the applicant was ^{to} joined as E.D.B.P.M.. In absence of any evidence that the applicant was ^{never} appointed as Group-D employee, ~~therefore~~ action against the applicant was required to be taken by the respondents under Rule-6 of the EDA (Conduct and Service) Rules. No action has been taken in this rule the applicant shall be deemed to be in service.

10. Accordingly, we allowed this O.A. with a direction to the respondents to appoint the applicant as E.D.B.P.M. to the first vacancy which may occur. It is however made clear that the applicant shall not be given arrears of pay w.e.f. the date of discharge from the Army Postal Service till the date of joining. However this period shall be counted towards seniority.

11. The O.A. is allowed accordingly. Costs easy.


MEMBER (A)


MEMBER (J).

Dated: 20.4.99.
Lucknow.
amit//.